IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 120 OF 2007

MARIA FERNANDES AND 3 ORS. ... Petitioners
Versus
DEPUTY COLLECTOR (LA) AND LAO AND ANR ... Respondents

Mr. D. Pangam, Advocate for the petitioners.
Ms. W. Coutinho, Govt. Advocate for the respondents.

Coram:- R. S. MOHITE, J.

Date:- 5th October, 2007

P.C.

The short dispute which has been raised in this petition is that in the Order passed by the IInd Additional District Judge, North Goa, Panaji dated 18.7.06 disposing off the execution application, a deduction of Rs.2,65,975.67 was wrongly granted. This deduction has been granted in para 9 of the impugned order. My attention is drawn to the fact that the executing Court had directed the Land Acquisition Officer to produce a receipt and it is contended that this was not done. In this Court also, I had directed the Judgment Debtors to produce a receipt which was not done.

2. In the affidavit filed on behalf of the respondent No.2, it is contended that no receipt could be located in the Office of respondent No.1 who is the Dy. Collector (LA). In view of this position, the impugned order is set aside and the matter is remanded to the executing Court. The executing Court will give one more opportunity to the Judgment Debtors to prove the payment of Rs.2,65,975.67 and if such a payment cannot be proved, then the executing Court will proceed on the footing that no such payment is made. The claim of the present petitioners to this amount will then be decided in accordance with law.

It may only be recorded that it is the stand of the Judgment Debtors that even if the payment of Rs.2,65,975.67 is not proved, the petitioners are entitled to only 50 % of this amount. This position is disputed by the petitioners. With aforesaid directions, the petition stands disposed off.

R. S. MOHITE, J.

ssm.